IN THE SUPREME COURT OF THE STATE OF DELAWARE

DANA WILLIAMS,	§	
	§	No. 691, 2011
Defendant Below,	§	
Appellant,	§	Court Below-Superior Court of
	§	the State of Delaware in and
v.	§	for New Castle County
	§	
STATE OF DELAWARE,	§	
	§	
Plaintiff Below,	§	Cr. ID No. 9510004645
Appellee.	§	

Submitted: July 10, 2012¹

Decided: September 27, 2012

Before STEELE, Chief Justice, HOLLAND and JACOBS, Justices.

ORDER

This 27th day of September 2012, it appears to the Court that:

(1) On December 20, 2011, the Court received Dana Williams' notice of appeal from his conviction and sentencing on November 16, 2011 on a violation of probation. Williams is an inmate incarcerated in a Delaware correctional facility. Pursuant to Supreme Court Rule 6(a)(ii),

¹ The Court held this matter in abeyance pending the outcome of *Smith v. State*, which we dismissed by Opinion issued on July 10, 2012. *See Smith v. State*, 47 A.3d 481 (Del. 2012) (dismissing appeal as untimely).

Williams' notice of appeal should have been filed on or before December 16, 2011.²

- (2) On December 20, 2011, the Clerk issued a notice pursuant to Supreme Court Rule 29(b) directing that Williams show cause why the appeal should not be dismissed as untimely filed.³ In response, Williams asserts that he mailed the notice of appeal to the Court three days before the December 16, 2011 deadline. Williams contends that he should not be held responsible for the delay in the Court's receipt of the appeal papers, which was caused, he maintains, by prison mail room staff. The State has filed an answer opposing Williams' position and supporting a dismissal of the appeal.
- (3) Time is a jurisdictional requirement.⁴ A notice of appeal must be received by the Office of the Clerk of this Court within the applicable time period to be effective.⁵ An untimely appeal cannot be considered unless an appellant can demonstrate that the failure to file a timely notice of appeal is attributable to court-related personnel.⁶ An appellant's pro se

² See Del. Supr. Ct. R. 6(a)(ii) (providing that a notice of appeal shall be filed in the office of the Clerk within thirty days after a sentence is imposed in a criminal conviction).

³ See Del. Supr. Ct. R. 29(b) (governing involuntary dismissal upon notice of the Court).

⁴ Carr v. State, 554 A.2d 778, 779 (Del. 1989), cert. denied, 493 U.S. 829 (1989).

⁵ Del. Supr. Ct. R. 10(a).

⁶ Bey v. State, 402 A.2d 362, 363 (Del. 1979).

status does not excuse a failure to comply strictly with the Court's jurisdictional requirements.⁷

- (4) Recently in *Smith v. State*, we reexamined whether we should adopt the federal "prison mailbox" rule.⁸ In our July 10, 2012 Opinion deciding *Smith v. State*, we concluded that "[t]he unambiguous language of title 10, section 147, Rule 6(a)(ii), and Rule 10(a) preclude us from adopting a prison mailbox rule . . . by judicial decision."
- (5) In this case, there is nothing to reflect that Williams' failure to timely file his notice of appeal is attributable in any way to court personnel.¹⁰ Accordingly, this case does not fall within the exception to the general rule that mandates the timely filing of a notice of appeal.

NOW, THEREFORE, IT IS ORDERED, pursuant to Supreme Court Rule 29(b), that the within appeal is DISMISSED.

BY THE COURT:

/s/ Randy J. Holland
Justice

⁹ Smith v. State, 47 A.3d 481, 486 (Del. 2012). We also referred the issue to our Rules Committee for a recommendation on whether we should consider adopting the prison mailbox rule as a rule of procedure. *Id.* at 487.

⁷ Carr v. State, 554 A.2d 778, 779 (Del.1989), cert. denied, 493 U.S. 829 (1989).

⁸ See id. at 780 (declining to adopt a prison mailbox rule).

¹⁰ Zuppo v. State, 2011 WL 7612523 (Del. 2011) (holding that prison personnel are not court personnel).